

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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**First-tier tribunal for Scotland (Housing and Property Chamber)**

**STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24 (1)**

**Chamber Ref:FTS/HPC/RT/17/0118**

**Title no GLA199987**

**Flat 1-2, 33 Whitehaugh Road, Glasgow G53 7JQ ("The house")**

**The Parties:-**

**Mr Graham McBride, 34 Lothian Road, Clarkston, Glasgow G76 7ND (The Landlord)**

**Mr David Cardigan, Glasgow City Council-Development and Regeneration Services, Exchange House, 231 George Street, Glasgow G1 1RX ( "third party applicant")**

**Ms Pamela Hannah, Flat 1-2 , 33 Whitehaugh Road, Glasgow G53 7JQ ("the Tenant")**

### **Decision**

**The First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal'), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence provided by both the Landlord and the Tenant and the third party applicant , determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.**

### **Background**

- 1. By application dated 24/3/2017 the third party applicant applied to the Housing and Property Chamber for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b)**

of the Housing (Scotland) Act 2006 ("the Act"). The Tenant was a participating party.

2. The application by the third party applicant stated that they considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure :- that the installations in the house, the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order; that any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order; that the house has satisfactory provision for detecting fires or giving warning in the event of fire or suspected fire and that the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. By letter dated 28 March 2017 the President of the Housing and Property Chamber intimated a decision to refer the application under Section 22 (1) of the Act to a tribunal.
4. The tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlord and the Tenant and the third party applicant.
5. Following service of the Notice of Referral the Landlord made written representations to the tribunal .
6. The tribunal inspected the Property on the morning of 19 th May 2017. The Tenant was present during the inspection. Neither the Landlord nor the third party applicant were present.
7. Following the inspection of the Property the tribunal held a hearing at Wellington House ,134-136 Wellington Street, Glasgow. No party attended the hearing.

### **Findings of fact and Reasons for the decision**

8. The tribunal considered each of the issues raised by the third-party applicant in turn.

#### Gas boiler

It was clear from the inspection that the gas boiler is not currently in working order. The boiler was switched on and the tribunal attempted to ignite it but nothing happened. The tenant advised that the boiler had not been working since January 2017 and that she had no hot water or

heating. The tribunal consider that this is the breach of the repairing standard section 13(1)(c) and accordingly proceeded to make an order. Prior to the hearing the tribunal had Directed the landlord to produce a gas safety certificate. No certificate has been produced and the tribunal included this in the order.

#### Smoke alarms and heat detector

The tribunal noted that there was one functioning smoke alarm in the house located in the hallway. To comply with current requirements there should also be a heat detector in the kitchen and another hard wired smoke alarm in the living room which should all be interlinked. This is a breach of section 13(1)(f) of the repairing standard and accordingly the tribunal proceeded to make an order.

#### Carbon monoxide alarm

It was clear from inspection that there used to be a carbon monoxide alarm in the kitchen but only the backing plate is now there. To meet the repairing standard there requires to be a functioning carbon monoxide alarm in the house. This is accordingly a breach of section 13(1)(g) and the tribunal proceeded to make an order.

#### Toilet seats, wardrobe door, kitchen floor and the bathroom tiles

It was clear from inspection that the toilet seats in both the bathrooms were broken or missing. The tenant advised that she had tried to fit new ones but it had not worked. One of the wardrobe doors in the main bedroom is missing and the tenant advised that it had become broken. There's a hole in the vinyl floor in the kitchen. Some of the tiles in the bathroom are cracked and broken. The landlord suggests in his written representations that the damage has been caused by the tenant. The tenant advised that the kitchen floor and bathroom tiles were both mentioned in the inventory when she moved in. There was nothing to suggest to the tribunal that there had been any deliberate damage done to the property by the tenant. Although these are relatively minor matters they do constitute a breach of section 13(1)(d) and accordingly the tribunal proceeded to make an order.

The tribunal also noted that the bath panel is cracked but this matter was not mentioned in the Application to the tribunal(it is mentioned in the letter of seventh of March 2017 to the landlord). The tribunal would recommend that the landlord to fix the bath panel.

A Schedule of Photographs is attached to this Decision.

The tribunal would also point out that landlords now have a responsibility to obtain Electrical Condition Installation Reports for the electrics in the property and PAT testing certificates for any appliances supplied by the landlord and this is something that the landlord should address.

The landlord in written representations and the tenant orally at the inspection raised a number of issues which are not directly relevant to the issue to be considered by the tribunal which is whether or not the house it's present condition meets the repairing standard.

### **Decision**

9. The tribunal accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
10. The tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1). The tribunal considered that a period of six weeks would give the Landlord sufficient time to rectify matters.
11. The decision of the tribunal was unanimous.

### **Right of Appeal**

12. **A landlord, tenant or third party applicant aggrieved by the decision of the tribunal appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

### **Effect of section 63**

13. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

**J Lea**

Date

23/5/17

Chairperson

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# Schedule of Photographs

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Flat 1/2

33 Whitehaugh Road

GLASGOW

G53 7JQ



1. The missing carbon monoxide detector in the kitchen (back-plate only in position).



2. The defective boiler in the kitchen.



**3. The defective vinyl flooring in the kitchen.**



**4. The smoke detector in the hallway.**



**5. No heat detector in the kitchen.**

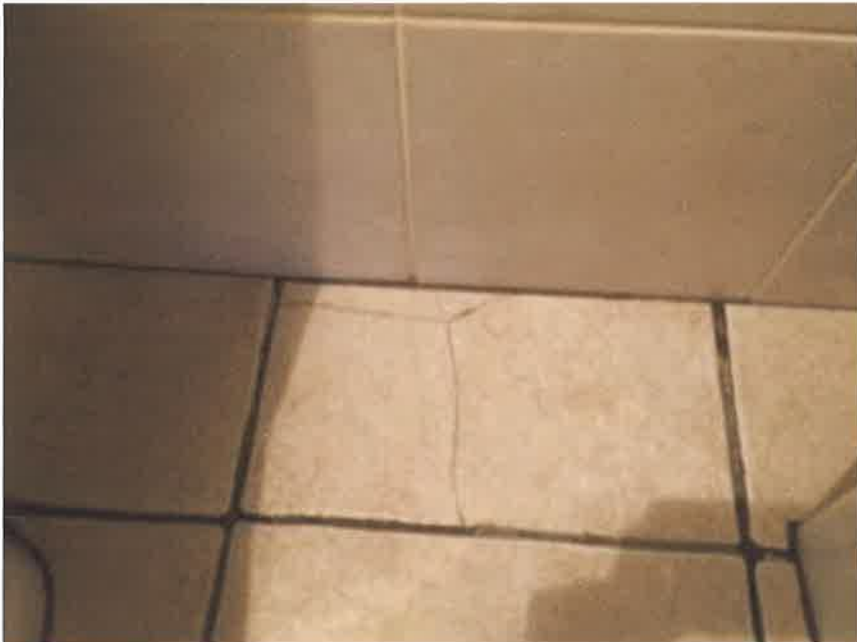


**6. Missing toilet seat/lid (main bathroom)**





**7. Damaged bath panel in the main bathroom.**



**8. Example of cracked tile in the main bathroom.**



9. Missing toilet seat/lid in en-suite.



10. Missing sliding wardrobe door in the bedroom.

J Lea

J Lea

23/5/17

**First-tier  
tribunal for  
Scotland  
(Housing  
and Property Chamber)**

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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**Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006  
Section 24**

**Chamber Ref:FTS/HPC/RT/17/0118**

**Title no GLA199987**

**Flat 1-2, 33 Whitehaugh Road, Glasgow G53 7JQ ("The house")**

**The Parties:-**

**Mr Graham McBride, 34 Lothian Road, Clarkston, Glasgow G76 7ND (The Landlord)**

**Mr David Cardigan, Glasgow City Council-Development and Regeneration Services, Exchange House, 231 George Street, Glasgow G1 1RX ("Third Party Applicant")**

**Ms Pamela Hannah, Flat 1-2, 33 Whitehaugh Road, Glasgow G53 7JQ ("the Tenant")**

Whereas in terms of their decision dated 23 May 2017, the First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal') determined that the landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act") and in particular that the landlord has failed to ensure that the installations in the house, the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order; that any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order; that the house has satisfactory provision for detecting fires or giving warning in the event of fire or suspected fire and that the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health:

the tribunal now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the tribunal requires the landlord:-

- (a) Repair/replace the gas boiler to ensure it is in a reasonable state of repair and in proper working order and thereafter supply an up to date gas safety certificate.
- (b) Install a heat detector in the kitchen and an additional smoke detector in the living room all to be hard wired and interlinked with the existing smoke alarm in the hallway.
- (c) Install a carbon monoxide alarm in the kitchen fixed in accordance with current statutory guidance.
- (d) Repair/replace the kitchen floor vinyl, the toilet seats, the broken/cracked bathroom tiles and the broken wardrobe door to ensure they are in a reasonable state of repair and in proper working order.

The tribunal order that the works specified in this Order must be carried out and completed within the period of six weeks from the date of service of this Notice.

**A landlord, tenant or third party applicant aggrieved by the decision of the tribunal appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

**Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.**

In witness whereof these presents type written on this and the preceding page(s) are executed by Judith V Lea solicitor, Cupar, chairperson of the tribunal at Cupar on 23 May 2017 before this witness:-

**M Finnie**

witness

**J Lea**

Chairperson

Matthew Finnie  
2 Balgownie Road  
Bridge of Don  
Aberdeen